

**Protection for Employees' Privacy: Aimed at Protection for
Employees' Right to Their Health Information in a Continuous
Employment Relationship in Japan**

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Abstract

Employers in Taiwan, for the purpose of human resource management, generally have a need to collect employees' personal information. Additionally, in order to ensure employees' safety and protect them from occupational accidents, the labor laws and regulations, such as the Occupational Safety and Health Act, require the employers to implement measures including arrangement for health examinations to understand the employees' health conditions. However, employers' right to collect the employees' personal information is not unlimited, and the employers should be aware whether such collection will infringe the employees' privacy or violate any regulations under the Personal Data Protection Act.

Article 483-1 of Taiwan's Civil Law provides for the duty of protection and care of employers to employees. In addition, Article 20 of the Occupational Safety and Health Act requires that the employers conduct pre-employment physical examinations for laborers at the time of employment and conduct certain health examinations for currently-employed laborers. Furthermore, according to Article 30 of the Occupational Safety and Health Act, employers shall not assign a pregnant female laborer to perform any potentially dangerous or harmful task. Thus, under the circumstances when the employers collect the employees' sensitive health information such as medical records, or inquire whether they are pregnant, or investigate about their health and medical information against their

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will, or order the employees to undergo health examinations beyond the scope required under the Occupational Safety and Health Act, do the employers violate the privacy of the employees and shall bear any liability for infringement? Or is such act considered necessary to implement the employers' statutory duty and therefore the employees have the obligation to endure? Such issues are very important and shall be explored further.

Nonetheless, there are very few research reports related to this subject matter in Taiwan. This research project will use Japanese laws in relation to the protection of employees' right to their health information as the source material for making a comparative study. It will begin with introducing the establishment and development of the concept of privacy, and go on with exploring the relationship between privacy and personal information protection law. Finally, it will discuss the obstacles that we have faced in protecting the employees' privacy in an employment relationship and try to delineate the borderline of privacy protection as well as make reflections on this subject matter.

Keywords: privacy, PDPA, personal information, sensitive information, Employment Service Act, health information